



# Everglades Coalition

1000 Friends of Florida  
Arthur R. Marshall Foundation  
Audubon Florida  
Audubon of Southwest Florida  
Audubon of the Western Everglades  
Audubon Society of the Everglades  
Backcountry Fly Fishers of Naples  
Calusa Waterkeeper  
Cape Coral Friends of Wildlife  
Center for Biological Diversity  
Conservancy of Southwest Florida  
Defenders of Wildlife  
"Ding" Darling Wildlife Society  
Earthjustice  
Environment Florida  
Everglades Foundation  
Everglades Law Center  
Everglades Trust  
Florida Bay Forever  
Florida Conservation Voters Education Fund  
Florida Defenders of the Environment  
Florida Keys Environmental Fund  
Florida Native Plant Society  
Florida Oceanographic Society  
Friends of the Arthur R. Marshall  
Loxahatchee National Wildlife Refuge  
Friends of the Everglades  
Hendry-Glades Audubon Society  
International Dark-Sky Association,  
FL Chapter  
Izaak Walton League of America  
Izaak Walton League Florida Division  
Izaak Walton League Florida Keys Chapter  
Izaak Walton League Mangrove Chapter  
Lake Worth Waterkeeper  
Last Stand  
League of Women Voters of Florida  
Martin County Conservation Alliance  
Miami Pine Rocklands Coalition  
Miami Waterkeeper  
National Audubon Society  
National Parks Conservation Association  
National Wildlife Refuge Association  
Natural Resources Defense Council  
North Carolina Outward Bound School  
Ocean Research & Conservation Association  
Peace River Audubon Society  
Reef Relief  
Sanibel-Captiva Conservation Foundation  
Save It Now, Glades!  
Sierra Club  
Sierra Club Florida Chapter  
Sierra Club Broward Group  
Sierra Club Calusa Group  
Sierra Club Central Florida Group  
Sierra Club Loxahatchee Group  
Sierra Club Miami Group  
Snook and Gamefish Foundation  
South Florida Audubon Society  
Southern Alliance for Clean Energy  
The Florida Wildlife Federation  
The Institute for Regional Conservation  
The National Wildlife Federation  
The Urban Environment League of  
Greater Miami  
Theodore Roosevelt Conservation  
Partnership  
Tropical Audubon Society

August 15, 2019

Kristin Gousse  
Department of Environmental Protection  
2600 Blairstone Rd., MS 2500  
Tallahassee, FL 32399-6516

*Sent via email.*

**RE: Biosolids Rulemaking, Chapter 62-640, F.A.C.**

Dear Ms. Gousse,

The Everglades Coalition, comprised of 62 organizations committed to the health and protection of America's Everglades, write to express concern with one aspect of the current rulemaking process developed to address the management practices and potential nutrient pollution impacts related to the land disposal of biosolids. The proposed changes to 62-640, F.A.C. only apply to class A and B biosolids, not class AA biosolids, which comprise an increasingly large proportion of the biosolids generated by central sewer treatment operations. The current proposal leaves unchanged rule 62-640.850 F.A.C., which labels class AA biosolids as "fertilizer", without documentation or monitoring to ensure that they are being used as fertilizer<sup>1</sup>, and exempts them from the rules for biosolids use and disposal including critical setback and monitoring requirements. We respectfully suggest this exemption needs to be eliminated in this rulemaking.

Biosolids are being used throughout Florida, but specifically in the Greater Everglades there is concern that the application of biosolids anywhere in its watershed is likely providing the limiting nutrient that is triggering Harmful Algal Blooms (HABs). Unfortunately, the monitoring exemption for class AA leaves us with a big data gap, keeping us from better understanding this problem. For example, class B biosolids are applied according to a phosphorus index taking phosphorus absorbing capacity of the soil into consideration. If class AA were subjected to the same standard, we would be able to isolate the problem and do better at source control. Several of these exemptions came into effect in 2010 (according to records acquired from the state rulemaking process of 2009-2010), and the Greater Everglades most impactful HAB problems have occurred since then. There is likely a connection, but we need the data to find the largest source contributor.

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<sup>1</sup> It is *assumed* that Class AA biosolids are applied following Best Management Practices (BMPs) standards and appropriate agronomic rates but there is no verification of that. Considering Class AA biosolids have the same bulky characteristics that drives land application rates of Class B at much higher rates than BMPs allow, the assumption that Class AA biosolids are applied according to agronomic rates is unlikely to be accurate.

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While the proposed changes are improvements for class A and B biosolids, these changes must apply to all biosolid classes; class AA should no longer be exempt. The difference among the three classes *only* relates to amounts of pathogens and heavy metals in each. Although we fully recognize the importance of regulating pathogens and metals that can get into waterbodies, this rulemaking focuses on the importance of monitoring and understanding how and when nutrient pollution is entering Florida's waters, leading to the recent outbreaks of Harmful Algal Blooms (HABs). All biosolids, classes AA, A, and B, contain similar nutrient levels. For these rule changes to effectively address the recent outbreaks of HABs and monitor and reduce nutrient inputs at the source, the proposal must be expanded to remove the class AA biosolids exemption to require basic reporting in place for biosolids use and disposal.

It is important to note that because the proposed rule places further restrictions on class B, it will put more pressure on utilities to turn biosolids into class AA to gain the "fertilizer" loophole and lack of oversight to its application. Class AA biosolids, first exempted from most biosolids regulations in 2010, already comprise the largest stream of material at 45% of all biosolids generated today (versus only 30% for class B), and that proportion likely will increase if class AA biosolids continue to be exempted from these regulations. Inasmuch as class B needs additional regulation, class AA's much larger volume of material and nutrients makes clear that DEP must ensure that the use and disposal of these materials are also evaluated to ensure they do not contribute to the increased number and intensity of HABs.

**Exemptions under 62-640.850, F.A.C. afforded Class AA biosolids should be removed and the following requirements should be added for Class AA biosolids:**

- Cumulative application limits
- Set back requirements
- Nutrient management plan and biosolids storage plan
- Soil monitoring
- Groundwater monitoring
- Record keeping and biosolid application site log
- Biosolids application site and annual summary

The changes proposed above will allow the state to more accurately determine the sources of upstream nutrients and will foster a better understanding of how land disposal of biosolids contributes to nutrient loading statewide. If the state is serious about solving the problem identified in the rulemaking notice – "[t]o ensure the proper management and permitting criteria for the land application of biosolids" – then the state can no longer exempt class AA, as it is likely a major contributing factor in the occurrence of HABs.

The entire state is confronting a nutrient explosion, as HABs have grown in concentration, frequency and in spatial extent over the past decade across Florida. Ignoring the use and disposal of class AA biosolids is to ignore a likely significant source of nutrient pollution and potential cause of the increasing numbers of HABs. Our lack of understanding of the role biosolids, and class AA biosolids in particular, play in HABs stems largely from the current exemptions limiting critical data from being collected and analyzed. There is simply no reason for this to continue, and every reason to change the rules now.

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We respectfully request you amend this rulemaking process to include class AA biosolids or concurrently amend 62-640.850, F.A.C. to remove exemptions so that all classes of biosolids are treated equally and do not offer a loophole for disposing of this nutrient laden waste without proper regulation and monitoring requirements.

Sincerely,



Mark Perry  
Co-Chair



Marisa Carrozzo  
Co-Chair

Cc: Governor Ron DeSantis  
Secretary Noah Valenstine  
Blue-Green Algae Task Force  
Red Tide Task Force

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